



FOR IMMEDIATE RELEASE
CITY OF LAS VEGAS
OFFICE OF THE MAYOR

EXECUTIVE ORDER 2012-3

FINDING THAT PROPOSED ORDINANCE NO. 12-06 IS VOID
BECAUSE IT VIOLATES THE CONSTITUTIONS OF THE
UNITED STATES AND THE STATE OF NEW MEXICO
AND THE CITY CHARTER

WHEREAS, proposed Ordinance No. 12-06 is made up in two parts:

The first section states that the City is against the use of hydraulic fracturing for the extraction of gases and oils.

The second section is a self proclaimed Bill of Rights which finds that the Federal Government or the State Government or the Supreme Court have no authority over the Citizens of Las Vegas. The Ordinance provides that Corporations have no rights in Las Vegas and that the City should secede from the United States of America if the State or Federal Government attempt to exert their authority within the City limits.

WHEREAS Mayor Alfonso J. Ortiz, Jr. is against the use of Hydraulic Fracturing for the extraction of gases and oils because of the real potential to harm the delicate environment in the City of Las Vegas.

WHEREAS, Mayor Ortiz has and will promote the protection of the City of Las Vegas water from any and all forms of contamination, and is in favor of passing an Ordinance that reflects such items; but such Ordinance must be written in accordance with the law. Water is a number one priority for the City of Las Vegas. Over the past three years this Mayor has taken numerous steps to protect and supplement the City's water supply.

WHEREAS the City Attorney Dave Romero, Jr. has advised the Mayor and Council that Ordinance No. 12-06 is Unconstitutional because it violates the Due Process Clause of the Constitution of the United States of America and the Constitution of the State of New Mexico, and the City of Las Vegas Charter. The Ordinance violates the civil rights of citizens.

WHEREAS, Ordinance 12-06 directly takes the property of persons without any form of Due Process which exposes the Citizens of Las Vegas to tremendous financial liability. The New Mexico Municipal League has also concluded that the proposed Ordinance is illegal and therefore they will not provided insurance defense or coverage for any related actions taken against the City.

WHEREAS, Ordinance No. 12-06 threatens the water rights of the local Farmers, Acequia users and the water of the Storrie Lake Water Users Association because their priority rights could be disregarded. Each of these entities have worked with the City to protect the water resources of the area and it would be harmful to their relationship with the City if the City acted passed an unconstitutional law.

WHEREAS, as Ordinance No. 12-06 authorizes individuals the right to unilaterally enforce the law and changes existing zoning and vested property rights without a hearing which is equivalent to the taking of property without Due Process of Law.

WHEREAS under the New Mexico State Constitution, water belongs to the public, and solely the State as the owner of the water, has rights to prescribe how it may be used. The Office of the State Engineer represents the public in the regulation of water. This is only one example where the State and Federal Government have delegated authority to an agency. The proposed Ordinance violates this governmental authority and all existing Pre-Emption laws.

WHEREAS, Ordinance 12-06 leaves the City of Las Vegas vulnerable to a number of law suits and a potential loss of monies and resources belonging to the citizens of the City of Las Vegas.

WHEREAS, the Sponsors of the proposed Ordinance have rejected less offensive alternative Ordinances which would support the idea that Hydraulic Fracturing should be banned in Las Vegas, but would delete the provisions which violate civil rights.

WHEREAS, the City of Las Vegas already has a Moritorium on Hydraulic Fracturing within the jurisdiction of the City which bans "fracking" pursuant through Ordinance 10-16.

WHEREAS, the language of Ordinance 12-06 further claims that its provisions override the Charter of the City of Las Vegas, New Mexico. An Ordinance which is voted on by 3 council members can not override the Charter which is approved by the entire community.

WHEREAS, the Mayor and the Governing Body have sworn an oath to carry out the laws of the State of New Mexico and the laws of the United States of America. Publication and the Signing this proposed Ordinance would violate that sacred Oath.

NOW, THEREFORE, I, Alfonso E. Ortiz, Jr. Mayor of the City of Las Vegas, New Mexico, after much thought and consideration, do hereby conclude that I will not sign nor publish proposed Ordinance 12-06.

CITY OF LAS VEGAS, NEW MEXICO ORDINANCE 12-06 IS HEREBY EFFECTIVELY VETOED.

6-28-2012
Dated:

Alfonso E. Ortiz, Jr.
Alfonso E. Ortiz, Jr.,

ATTEST:

Cassandra Fresquez
Cassandra Fresquez, City Clerk